

Article - Environment

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§2–405.

(a) (1) Whenever the Public Service Commission notifies the Secretary of an application for a certificate of public convenience and necessity under § 7–207 of the Public Utilities Article, the Secretary shall prepare a recommendation in connection with the permit or registration required by this subtitle. The recommendation shall be presented at the hearing required by § 7–207 of the Public Utilities Article.

(2) The recommendation shall identify the requirements of all applicable federal and State environmental laws and standards and shall recommend and evaluate various methods and conditions for compliance.

(3) If a person files an application for an operating permit under this subtitle simultaneously with an application for a certificate, the Department shall consolidate its procedures for the issuance of the operating permit with the Public Service Commission's proceedings for issuance of the certificate and shall issue the operating permit simultaneously with the certificate unless consolidation would be inconsistent with the procedures set forth in the federal Clean Air Act.

(4) The Department shall incorporate into the initial operating permit the conditions of the certificate which relate to air quality control.

(b) Subject to judicial review as provided under Title 3, Subtitle 2 of the Public Utilities Article, the decision of the Public Service Commission in connection with a certificate of public convenience and necessity or a filing under § 7–206 of the Public Utilities Article is binding on the Secretary.

(c) When a person that is required to obtain a certificate of public convenience and necessity applies for an operating permit for a generating station under this subtitle, the person shall send a copy of the application, at the time of filing, to the Public Service Commission.

(d) The Department shall consolidate procedures for the issuance of the operating permit with procedures of the Public Service Commission for the approval of the installation of pollution control equipment or a change in the method of operation unless consolidation would be inconsistent with the procedures set forth in the federal Clean Air Act.

(e) (1) Before issuing an operating permit which requires the installation of pollution control equipment or a change in the method of operation of the generating station or unit to any person required to obtain a certificate of public convenience and necessity, the Secretary shall notify the applicant and the Public Service Commission and request that the Public Service Commission institute a hearing as required by § 7–206 of the Public Utilities Article.

(2) In addition to the notification, the Secretary shall file the record of the operating permit proceeding and the Department's reasons for requiring the installation of pollution control equipment or change in method of operation.

(f) (1) The Commission shall conduct the hearing required by subsection (e) of this section in the manner set forth in §§ 7–205 and 7–207 of the Public Utilities Article.

(2) The Department shall incorporate the Commission's order rendered in accordance with § 7–206 of the Public Utilities Article.

(g) Except as provided in subsection (h) of this section, the Secretary shall consult with the Public Service Commission concerning the impact of any operating permit, order or injunction on the supply and cost of electricity in this State before issuing any operating permit, issuing any order, or seeking any injunction under this subtitle that:

(1) Significantly impacts the supply of electricity from a generating station owned or operated by any person required to obtain a certificate of public convenience and necessity; or

(2) Significantly affects the cost of electricity provided by any person that is required to obtain a certificate of public convenience and necessity.

(h) (1) The Secretary need not consult with the Commission before issuing an order or seeking an injunction if the Secretary concludes that the delay during consultation could harm public health or the environment.

(2) If the Secretary does not consult with the Commission before the issuance of the order or of the seeking of an injunction, the Secretary shall consult with the Commission as soon thereafter as practicable.

(i) The failure of the Department or the Public Service Commission to comply with this section is not a defense to an action against a person to enforce, to obtain, or to punish for noncompliance with any permit, certificate, order, or injunction.

(j) The Secretary may adopt regulations to carry out the provisions of this section. The Secretary may not require a permit nor require the payment of a permit fee in violation of the federal Clean Air Act.

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